



Office of the City Manager • 555 Santa Clara Street • Vallejo • CA • 94590 • 707.648.4576

July 5, 2018

Sent via Email: cdcclower@solano.courts.ca.gov

Mr. Terry Riddle
Foreperson, Grand Jury
Hall of Justice
600 Union Avenue
Fairfield, CA 94533

RE: **2017-2018 Grand Jury Report Entitled: Solano Animal Control Authority, A Joint Powers Authority**

Dear Mr. Riddle,

The Mayor and I have received your correspondence requiring a written response to the above-entitled report. A review of the report reveals that it is directed at "Member City Mayors and Member City Managers."

The City of Vallejo is not a member of the Solano Animal Control Authority (SACA). The City of Vallejo is not mentioned anywhere within the report. Therefore, we believe the Grand Jury has sent us a request to respond in error.

Please let us know if there is anything further that we can do to assist you.

Regards,

A handwritten signature in blue ink, which appears to read "Greg Nyhoff", is placed over the printed name and title.

Greg Nyhoff
City Manager

cc: Vallejo City Council
Claudia Quintana, City Attorney

GRAND JURY



Hall of Justice
600 Union Ave
Fairfield, California 94533
(707) 435-2575
Fax: (707) 435-2566

cdclower@solano.courts.ca.gov

May 8, 2018

Sent via email

Greg Nyhoff, City Manager
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

RE: **2017-2018 Grand Jury Report Entitled: Solano Animal Control Authority, A Joint Powers Authority**

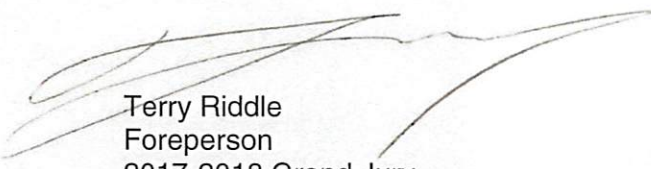
Enclosed please find a copy of the above-named report by the 2017-2018 Solano County Grand Jury. This report is provided to you **in advance of public release** as provided for in Penal Code §933.05(f). Please note that Penal Code §933.05(f) specifically prohibits any disclosure of the contents of this report by a public agency, its departments, officers or governing body prior to its release to the public, which will occur on **Friday, May 11, 2018**.

You are required to respond in writing to the Presiding Judge and to provide an electronic copy in pdf form to the Grand Jury regarding the Findings and Recommendations contained in the report pursuant to Penal Code §933.05. This section of the Penal Code is very specific as to the format of the responses. The Penal Code is also specific about the deadline for responses. You are required to submit your response to the Grand Jury by **Monday, July 9, 2018**, on signed letterhead.

The electronic copy should be sent to the Grand Jury office at cdclower@solano.courts.ca.gov.

Responses are public records. Should you have any questions, please contact Cheryl Clower, Administrative Assistant to the Grand Jury at (707)435-2575.

Sincerely,


Terry Riddle
Foreperson
2017-2018 Grand Jury

TLR/cdc



SOLANO COUNTY GRAND JURY
2017-2018

SOLANO ANIMAL CONTROL AUTHORITY
A JOINT POWERS AUTHORITY

Solano Animal Control Authority
A Joint Powers Authority
Solano County Grand Jury 2017-2018

I. SUMMARY

When the 2017-2018 Grand Jury interviews regarding animal control/care functions within Solano County revealed potential organizational weaknesses, the Grand Jury reviewed the formation, administration, and operation of the Solano Animal Control Authority (SACA) as a Joint Powers Authority (JPA). The Grand Jury concluded SACA did not have adequate internal controls to ensure accurate and timely reporting of required documentation to the California Secretary of State and Solano County Clerk in compliance with the Joint Exercise of Powers Act. In addition, the Grand Jury identified concerns related to the composition and term of the Board, appearance of the lack of a designated Treasurer, and organized retention and access to records.

During the course of interviews and review of requested documents there was evidence that SACA management recognized deficiencies and is working to initiate corrective measures addressing issues noted in this report.

II. INTRODUCTION

In 1986, a request for proposal to allow several cities to provide animal control services within their jurisdictions through means other than County services resulted in the formation of a Joint Powers Agreement establishing the Solano Animal Control Authority (SACA) a Joint Powers Authority (JPA).

A JPA can be formed by the agreement of two or more agencies, including cities, to carry out services common to each. Statutory authority for these agencies is derived from California Government Code sections 6500 – 6539, also cited as the Joint Exercise of Powers Act.

JPA's exist for many reasons. Member agencies are striving to cut costs, be more efficient, reduce and/or eliminate overlapping functions while improving services.

The Grand Jury investigated the administration of SACA due to budgetary issues raised concerning Humane Animal Services (HAS). HAS is a company contracted by SACA to provide animal control services to member cities. The lack of available information about the SACA JPA organization made the scope of this investigation focus on the formation and compliance with key administrative code requirements relative to reporting and records.

III. METHODOLOGY

Techniques used in deriving facts included:

- Interviewed representative(s) from:
 - SACA
 - HAS
 - Fairfield, Rio Vista, City of Suisun City, and Vacaville Police Departments
- Reviewed California Government Code:
 - sections 6500 - 6539
 - §56047.7
 - §53051
 - §1090
 - §87200
- Reviewed SACA resolution 2010/2011 authorizing invoicing of SACA members
- Examined HAS Budget 2015/2016 Actuals/Projected/Budget
- Reviewed Independent Auditors' Report for Fiscal Year End (FYE) June 30, 2013 for HAS
- Reviewed Independent Auditors' Report for Years Ended June 30, 2016 and 2015 for SACA
- Examined the following documents obtained from the California Attorney General's Registry of Charitable Trusts website:
 - HAS Tax Returns (Form 990) for FYEs 2007-2016
 - HAS Articles of Incorporation filed 6/11/86
 - HAS Certificate of Amendment of Articles of Incorporation filed 5/29/87
 - By-Laws for HAS indicating it is a subsidiary of the Society for the Prevention of Cruelty to Animals of Solano County
- Reviewed drafts of the 1986 Request for Proposal to provide animal control services to six cities and a Joint Exercise of Powers Agreement for SACA
- Examined copies of 1986 resolutions from Vacaville, City of Suisun City and Fairfield authorizing the establishment of SACA
- Reviewed the 2012-13 Grand Jury Report titled Animal Care Services
- Examined Travis Air Force Base (TAFB) Instruction 31-102 (Control of Animals on Travis AFB) Certified Current on 1/3/13
- Review of SACA records requests from:
 - California Secretary of State, Special Filings Unit
 - Solano County Clerk's Office
 - Solano County Local Agency Formation Commission (LAFCO)

IV. STATEMENT OF FACTS

The Solano Animal Control Authority (SACA), a JPA, was organized in 1986 to provide animal control services to participating agencies; current members are the City of Dixon, City of Fairfield, City of Rio Vista, City of Suisun City, and City of Vacaville. SACA is a legal entity separate from the member agencies. The Board of Directors is composed of one representative from each member. Annual contributions, apportioned among the members, are collected from

each participating city to cover SACA's expenses. Government Code §6505.5 indicates that when a JPA is a separate entity a treasurer must be appointed and shall provide for strict accountability for all funds and report all receipts and disbursements.

The table below shows the annual amount paid by member agencies.

Member Agencies	Payments *	Percentage
Vacaville	\$279,300	39.90%
Fairfield	\$279,300	39.90%
City of Suisun City	\$76,300	10.90%
Dixon	\$47,600	6.80%
Rio Vista	\$17,500	2.50%
Total	\$700,000	100%

* As at Annual Financial Report 6/30/16. The apportioned contributions have remained relatively static since 2011.

Upon the creation of a new JPA, a Notice of Joint Powers Agreement must be filed with the Secretary of State per Government Code §6503.5. The notice is also forwarded to the State Controller. Until officials file the required documents the entity cannot incur any debts, liabilities, or obligations. Government Code §6503.8 indicates that an agency or entity that meets the definition of a joint powers authority under §56047.7 formed for the purpose of providing municipal services and shall file a copy of the agreement or amendment with LAFCO within the applicable county no later than July 1, 2017.

Information was requested from the Solano County LAFCO office to determine if the required information was on file. That office was able to provide a copy of the Agreement to Add Parties to Joint Exercise of Powers Agreement for SACA effective 7/1/97 that added the cities of Dixon and Rio Vista to the JPA. Attached to that document was a copy of the 1986 agreement.

The California State Legislature, Senate Local Government Committee in August 2007 produced an informational guide titled *Governments Working Together: A Citizen's Guide to Joint Powers Agreements*. The guide under Frequently Asked Questions on "How can I find out who runs a JPA?" It replies, "State law requires every public agency (including a joint powers agency) to file basic information with the California Secretary of State and county clerk of the counties where it keeps offices. The Secretary of State and county clerks keep official rosters of public agencies." The Statement of Facts Roster of Public Agencies Filing (Government Code §53051) is a form that can be used by the governing body of a public agency to file the facts with the California Secretary of State and the Solano County Clerk. These filings were not on record.

A Special Filings Records Order Form was sent to the California Secretary of State - Special Filings Unit requesting copies of the following documents for Solano Animal Control Authority:

1. Notice of Joint Powers Agreement
2. Amendment of a Joint Powers Agreement
3. Statement of Facts Roster of Public Agencies Filing
4. Copy of Full Text Joint Powers Agreement and Amendments

A similar inquiry was sent to the Solano County Tax Collector/County Clerk requesting copies of the Statement of Facts Roster of Public Agencies. These filings were not on record.

Both government units responded the SACA documents **are not on record**.

This means no initial or subsequent amended filings have been reported within the regulatory timeframes. Therefore, by statute, since SACA failed to file the notice within 30 days after the effective date of the JPA agreement or amendment, and should not have incurred indebtedness of any kind.

The Grand Jury's review of the Joint Exercise of Powers Agreement forming SACA as a JPA revealed the following:

1. The 1986 agreement provided to the Grand Jury is an incomplete document approved by the originating agencies.

The document reviewed has various blank portions, strikethroughs, and initial approval signatures/documentation from only three cities; Fairfield, Vacaville, and City of Suisun City. The 1986 Request For Proposal indicates the following six cities were initially interested in being member agencies. They were: Fairfield, City of Suisun City, Vacaville, Dixon, Benicia, and Rio Vista. The city of Benicia is not currently a member and the Grand Jury could not find any evidence they ever joined. By unanimous vote of the Board, the cities of Dixon and Rio Vista joined by agreement effective 7/1/97.

2. The Administrative section indicates the JPA will be administered by one of the participating agencies and serve at the direction and pleasure of the Board of Directors.

The manner in which the JPA will be administered is critical to its success. Appointment to the SACA Board is approved by city council resolution. Generally, appointments to JPA boards are "at the pleasure" of the participating member's city council and therefore also have control over the timing of removal as well. Each member agency needs to select an appointee who has been given decision-making authority and adequate time allotted to the duty. This section does not mention a length of a Board members term.

The JPA needs to determine how it will be staffed. Will it employ its own staff or rely upon resources of member agencies? The Board shall provide for reimbursement of the cost of a treasurer and have the power to hire employees.

The Grand Jury obtained and reviewed SACA meeting minutes from 6/2016 through 9/2017.

In the 6/28/16 meeting questions were raised regarding proper representation at the meetings. On July 5, 2016 a SACA letter was sent to the member agencies requesting the review of their respective city resolutions ensuring that meeting representatives are authorized to participate at the meeting. The SACA Board stated that it is imperative that representatives have decision-making authority. Responses to the letter from the Board varied. Some members indicated their city council approved the city manager or designee as the representative. Other members found no written resolution but continued a past practice of assigning the city's police chief or city manager to act as the SACA member.

3. The Financial Independence section calls for an annual payment for services.

It states, "The Participating Agencies shall pay the JPA for these services on or before July 31 of each participating year." *[NOTE- the preceding sentence had been lined out on the copy of the agreement presented for review.]* Interviews conducted by the Grand Jury determined the payments are being paid in monthly installments. Further research found a resolution authorizing invoicing SACA members for a proportionate share on a monthly basis effective July 1, 2010. This represents an amendment to the original agreement.

4. The Treasurer section referencing which City Finance Director shall initially act as Treasurer is blank.

This is an important designation because the Treasurer shall establish a separate fund for maintaining a strict accountability for all income and expenses pertaining to the JPA. That requires the Treasurer to have access to the use of the City's General Ledger (GL) system. The accounting records shall be available for inspection by member agencies at any time during normal business hours. Additionally, the Treasurer shall make or contract for an annual audit of the accounts and records. The Grand Jury was advised the City of Fairfield maintains separate Fund 586 on its GL for SACA. It is an Agency Fund used to account for resources held by the City of Fairfield in purely a custodial capacity. The City of Fairfield does not adopt budgets for these funds.

An Annual Financial Report (with Independent Auditors' Report on Financial Statements) for SACA for the Years Ended June 30, 2016 and 2015 is currently located on the City of Fairfield website. The opinion rendered was the financial statements were presenting the financial position of the JPA fairly. Government Code §6505 (c) requires this Audit Report to be filed with the County Auditor. The Solano County Auditor-Controller confirmed it was on file.

The audit report did reference the JPA is administered by the City of Fairfield and an individual associated with Fairfield was named as Treasurer. However, a review of SACA meeting minutes dated 6/28/16, disclosed a comment that stated, "...*there is no treasurer and should read City of Fairfield.*" Subsequent review of June and September 2017 minutes found a designated Treasurer was no longer listed in attendance. Additionally, a listing dated 1/31/18 provided by the JPA identifying the five current board members and legal counsel did not include a treasurer. This requirement is often overlooked in cases where the entity created is not large enough to justify its own finance department. However, an individual must be appointed. It can be someone from a member agency, the county treasurer where the JPA operates, or a certified public accountant that performs the job.

The Grand Jury reviewed the Animal Control Services Agreement and Amendments between SACA and HAS. The original agreement (not obtained) was dated July 16, 1986 and expired June 30, 1997. A new agreement was enacted commencing on July 1, 1997. Subsequent

amendments occurred on September 30, 1998 and April 18, 2002. Reviews revealed the following:

The 1997 Agreement

1. The verbiage in the Agreement seems to imply that SACA is a subsidiary of HAS.

This is not the case. HAS is a subsidiary of the Society for the Prevention of Cruelty to Animals (SPCA) of Solano County.

2. The Agreement was written with no expiration date.

It is effective 7/1/97 and shall continue until terminated as provided in Section 15 of the document.

The First Amendment of the 1997 Agreement

3. The misleading verbiage regarding subsidiary reference was corrected.
4. The Recitals indicate SACA entered into an Agreement for Animal Control Services, dated September 30, 1998 to provide animal control services to Travis Air Force Base (TAFB).

The amendment was necessary to make changes to the Agreement between SACA and HAS to cover TAFB. Interviews and information provided did not disclose this relationship nor is there evidence of TAFB being a member agency of SACA. Follow-up inquiries with SACA personnel confirmed TAFB is not a member of SACA and HAS does not provide services to the base. SACA's research determined the last agreement with TAFB was in 2007-08 and the indication is they no longer desire the service and it was ended. However, the Grand Jury located Instruction 31-102 issued by the TAFB Commander dated 12/7/07 (and Certified Current on 1/3/13) addressing control of animals on TAFB that still references SACA and indicates HAS responds to applicable activity reported by TAFB. Due to the age of this document and the responses received it seems there are no longer services being provided and the references were not purged from the document.

The Second Amendment

5. The Recitals indicate SACA and HAS have agreed to transfer title of vehicles provided to HAS under Section 6 of the Agreement.

Section 6 of the Agreement indicated SACA previously provided HAS with three motor vehicles with animal boxes and funds for a fourth in Fiscal Year 1997-98. During interviews the current status of these vehicles was raised. However, research determined the second amendment was clear as to the procedure for vehicle title transfer, registration,

insurance, sale, and disbursement upon termination of the agreement. The Grand Jury did not pursue the status of these vehicles.

V. FINDINGS AND RECOMMENDATIONS

FINDING 1 – A Notice of a Joint Powers Agreement and Amendment of a Joint Powers Agreement form along with a copy of the full text of the joint powers agreement and amendments has not been recorded with the California Secretary of State as required by Government Code §6503.5.

RECOMMENDATION 1 – SACA Board comply with Government Code requirements to file applicable, accurate documents with the California Secretary of State and ensure any updates are also provided to applicable agencies.

FINDING 2 – A Statement of Facts Roster of Public Agencies Filing form has not been recorded with the Secretary of State and County Clerk per Government Code §53051.

RECOMMENDATION 2 – SACA Board comply with Government Code requirements to file applicable and accurate documents with the California Secretary of State and Solano County Clerk.

FINDING 3 – Rules governing the composition of the board members, a specified term, and a provision for the removal of a director have not been established.

RECOMMENDATION 3 – SACA establish bylaws/rules about how its board will be configured, specified terms, and provision for the removal of a director.

FINDING 4 – As of 2017, SACA does not have a specific individual appointed as the Treasurer of the JPA as required by Government Code §6505.5.

RECOMMENDATION 4 – SACA Board comply with Government Code requirements to designate a Treasurer of the JPA to perform the applicable tasks listed in the code.

FINDING 5 – SACA does not have adequate operational controls nor oversight to ensure accurate and timely filing of required documents, organized retention and access to records.

RECOMMENDATION 5 – The Board designate a combined Treasurer/Operations Officer position to administer activities and meet reporting requirements. The Joint Exercise of Powers Agreement calls for the reimbursement of the operational cost of a Treasurer of the JPA. Establish an up-to-date website with contact information, agendas, minutes, audit reports, rosters, and other pertinent information to house records.

COMMENTS

The SACA Board consider a bylaw provision that allows for removal of Board Members at only specific times (term) or for specific reason. Each member agency select an appointee who has decision-making authority and given adequate time to perform the duties. Candidate pools should not be limited to a specific department. Recommended selections include: City Managers, Senior Finance Officers, City Treasurers, Council Members, or Senior Law Enforcement Officials. The participation of elected officials or very high-level management in this position is likely to lead to more commitment from the agencies, a broader level of knowledge and comfort with the entities decisions and ultimately more stability for the JPA.

REQUIRED RESPONSES

SACA Board President (Findings 1-5)
Member City Mayors (Finding 3)
Member City Managers (Finding 3)

COURTESY COPIES

SACA Board Members
Solano County Chief Administrative Officer
Solano County Clerk of the Board of Supervisors
California Secretary of State